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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/455,664	12/07/1999	KLAUS MELGAARD	PHB-34-305	5449

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR, NY 10510

EXAMINER

OCAMPO, MARIANNE S

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 07/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/455,664

Applicant(s)

MELGAARD ET AL.

Examiner

Marianne S. Ocampo

Art Unit

1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection. *factor*
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 11 July 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 13.

Claim(s) objected to: _____.

Claim(s) rejected: 2-4, 6 and 9-11.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

ATTACHMENT TO ADVISORY ACTION

1. The response filed under Rule 116 (Paper no. 27) on 7-11-03 has been entered and considered however the arguments presented do not place the application in better form for appeal by materially reducing or simplifying the issues for appeal, nor place the application in better condition for allowance. Applicants' arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. In particular, applicants argue that the primary reference (O'Flynn et al.) US Patent 6,383,381 failed to provide a "scale collector that comprises a block of compressed mesh material having a surface to which scale is attracted and which material is different from another mesh material in the filter", as in pages 1 – 2 of Paper no. 27. First of all, applicants are putting an emphasis on the feature/limitation "block of compressed mesh material to which scale is attracted and which material is different from another mesh material in the filter" (see page 2, lines 3 of Paper no. 27). These features using the primary reference (US 381) has been broadly interpreted and explained by the examiner (see paragraph 3 of Final office action, Paper no. 26). The examiner has considered the mesh material (indicated as 49) of the prior art product of O'Flynn et al. in combination or integrated with the casing walls (44, 47, 50 & 26) as in figs. 1, 8 & 12 which has been formed into a block or block-shaped element which attracts (i.e. traps and helps in precipitating the formation of) the scale or any sediments from the water passing therethrough, to be the scale collector and is (i.e. is formed by) a separate and distinct mesh material (i.e. different mesh element) from that of the

first mesh material (indicated as 34), and this clearly meets the claim limitations set forth in the current version of claim 15. It is unclear if applicants are placing a specific configuration to the term "block of compressed mesh material" such as a mesh material having a three-dimensional configuration having a depth of filter media (as in the embodiments shown in figs. 2 – 3 of applicants' disclosure/application), instead of being planar or as a surface media. The examiner has reviewed the specification and from pages 4 – 5, the claimed invention referring to a **block (25)** which comprises the scale collector, is basically **wire mesh compacted** (i.e. formed or configured) into a generally cylindrical form (see page 4 line 32 and page 5, line 1). Since claim 15 does not set forth or specifically claims the shape of the block of mesh material being cylindrical, the term "compressed mesh material" which has not been included in the specification has been made equivalent to a "wire mesh compacted" which has been defined by the examiner as a mesh material being formed into all sorts of shapes, including cylindrical, hemispherical, etc. Although it is true that the material of construction of the mesh material (49) comprising the scale collector of O'Flynn et al. being different/differ from the first mesh material (34) in the filter plate (26), the current version of claim 15 is not limited to this embodiment and still open to the interpretation set forth by the examiner above, which is that the mesh material (49) is a separate and distinct mesh material from the first mesh material (34). Since the rest of the arguments (i.e. those referring to claim 5) are also based on the validity/merits of the primary reference (O'Flynn et al.) in the rejection of claim 15, the examiner has considered them irrelevant and do not warrant merit. Martindale, the secondary reference does not have to specifically state that the strainers are so called "scale collectors" but since the strainers/scale

collectors of Martindale are formed of wire mesh material (i.e. wire fabric) like that of the claimed invention and is considered to be capable of use as scale collectors (trapping scale or sediments from water), the combination of teachings with O'Flynn et al. is considered valid.

Lastly, applicants have failed to address the examiner's interpretations as set forth in the final rejection of the claims in the last office action (Paper no. 26) sent to the applicants on 3-31-03 and reemphasized herein. This failure is deemed to be acquiescence.

2. See 37 CFR 1.193(a)(2) which provides for the inclusion of the proposed rejections detailed below in the Examiner's Answer if applicant elects to file an appeal to the Board of Patent Appeals and Interferences in this proceeding. To be complete, such rejections must be addressed in any brief on appeal.

Claims 15, 2 - 6 and 9 - 11 would be rejected for the reasons set forth in paragraph 3 (including the explanation in paragraph 1 above) of the final Office Action mailed 3-31-03.

3. With regards to the status of other claims, claim 13 is also pending and has been indicated to be allowable (see page 6, paragraphs 14 - 15 of Final office action/Paper no. 26, mailed 3-31-03).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo whose telephone number is (703) 305-

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1039. The examiner can normally be reached on Mondays to Fridays from 8:30 A.M. to 4:30 P.M..

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

W.L.W.
M.S.O.
July 24, 2003

W.L.W.
W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700